UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,535	12/28/2005	Philippe Gentric	FR 030075	6002

65913   7590   01/18/2011
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EXAMINER
DUBASKY, GIGIL

ART UNIT	PAPER NUMBER
2421	

NOTIFICATION DATE	DELIVERY MODE
01/18/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 November 2010</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-9</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-9</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Claim 10 had been previously cancelled.

Claims 1-9 are pending.

1.   Applicant's arguments in the Remarks filed on 11/01/2010 have been considered

but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Leaning et al (WO 02/49343 A1) of the record in view of Lai (US 2003/0236864) of the

record.

Regarding claim 1, Leaning discloses a server ("server 1" in Figure 1) having

access to at least one set of files (Si) generated by slicing an encoded multimedia

content in at least one set of slicing positions ({Ti,1, ...,Ti,K}) forming slices that can be

decoded independently one from the other, and by enclosing each slice in a file (Fij)

thereby generating at least one set of files (page 3 lines 5-22), said server comprising:

means for receiving an initial request directed to a multimedia content from a client

device (page 2 lines 16-17), the multimedia content including at least one of audio

content and video content (see abstract, and page 1 lines 12-14 and 20-21 for

delivering recorded audio or video material over a network),

means for sending a document to said client device upon reception of said initial

request, said document causing said client device to repetitively send a fetching request

designating said multimedia content (page 6 lines 5-8 for in the case of the sub-file

given a random name, not a simple fixed length sequence of numbers starting with

zero, the server sends name of the first sub-file and an algorithm to calculate

succeeding ones or sends a list of the filenames to the terminal's player program; and

see the summaries of process between the terminal and the server in the flowchart of

pages 9-10 for the terminal repeatedly sends a fetching request for subsequent sub-files

of content (going to step J1 in looping) after receiving the instruction from the server. In

other words, Leaning clearly discloses that in the case of randomly named sub-files,

after receiving the request message from the terminal, the server sends to the terminal

a response/a document including the first sub-file's name and an algorithm of

calculation of succeeding ones or a list of filenames which instructs the terminal

repeatedly sends a fetching request for the rest of subsequent sub-files of content),

means for selecting at least one file including at least one of audio content and video

content amongst said set(s) of files, upon reception of said fetching requests from said

client device (see the flowchart in page 10 for the server enables to check whether the

requested sub-file exists or not, in case of sub-file's existence selects requested sub-file

among a set of files and sends it in response to fetching requests from the terminal; and

abstract for including audio or video material in files), and

means for downloading the selected file(s) to said client device (page 2 lines 16-18 and

page 5 lines 13-14 for transmitting required sub-file to the terminal in response to

request message).

Leaning fails to disclose the fetching request does not identify a specific file to be

sent from the server to the client device.

Lai discloses a system for downloading files from a server to a client (see

abstract). Lai discloses the server divides the requested file into an appropriate number

of packets according to the file size and limited packet size, and stores the packets and

an obtained total number of the packets into a file downloading record (¶ [0020] lines

16-25 and see Figure 2A). Each packet has a different identification number in order

defined by the middle four bits (see Figure 2C). Lai discloses the server transmits each

packet in its order, receives a packet-received request (interpreted as a "fetching

request") from the client's computer device and deducts the total packet number by 1 in

the file downloading record; thereby the server can retrieve a proper packet for next

transmission according to the currently recorded total packet number and the middle

four bits of packet identification numbers (¶ [0022]). It means that Lai discloses the

packet-received request (fetching request) from the client device does not identify a

specific packet to be sent from the server to the client device because the server knows

exactly which one is next to be transmitted based on the current total packet number
and the middle four bits of packet number.

Therefore, it would have been obvious to one of ordinary skill in the art at the
time of the invention was made to modify Leaning with the teaching of Lai about the
server knows which packet or file is next to be transmitted without requiring the client
device identifies a specific packet or file to be sent in the fetching request, so to provide
an more effective system which enables not only to simplify the fetching message
transmitted from the client device to the server for saving bandwidth in communication,
but also to allow user to continuously download only un-transmitted part of requested
content if there is an interruption (taught by Lai; ¶ [0009]).

Regarding claim 2, Leaning in view of Lai discloses the server as discussed in
the rejection of claim 1. The combined system further discloses the document contains
a resource identifier designating said multimedia content and specific to the client
device (taught by Leaning; see the flowchart in page 9 for the server sends a response
which includes a resource identifier of requested content
(http:\\server1.com/mp3_bwv565/link.htm) to requested terminal upon receiving a
request message), and causes the client device to repetitively send fetching requests
containing said resource identifier (taught by Leaning; see the flowchart in page 10 for
the terminal repeatedly sends a fetching request for subsequent sub-files of content
(going to step J1 in looping) after receiving the instruction from the server), and said
server further comprises:

means, activated upon reception of a first fetching request, for selecting a first file to be

downloaded amongst said set(s) of files (taught by Leaning; page 6 lines 5-8 for in the

case of sub-file given a random name not a simple fixed length sequence of numbers

starting with zero, the terminal's player program is sent the name of the first sub-file and

an algorithm to calculate succeeding ones or is sent a list of the filenames from the

server after sending the initiated request message), and for keeping a record of said

resource identifier together with an indication of the selected file at the server and

updating the record (taught by Lai; ¶ [0006] for establishing the file downloading record

by utilizing member number and file identification number from member database and

file resource database respectively as well as a total packet number and divided

packets with their identification numbers in a file downloading database of the website

server; and ¶ [0018] and ¶ [0026]-[0028] for file downloading record is maintained and

updated to keep track of what next packet to be transmitted in case of interruption or

whether the file is successfully downloaded to the user); and

means, activated upon reception of subsequent fetching requests, for checking in order

to select the next file to be downloaded (taught by Leaning; see the flowchart in page 10

for the server enables to check whether the requested sub-file exists or not, in case of

sub-file's existence selects requested sub-file among a set of files and sends it in

response to fetching requests from the terminal).

        Regarding claim 3, Leaning in view of Lai discloses the server as discussed in

the rejection of claim 2. The combined system further discloses the document

comprises an instruction for the client device to send a subsequent fetching request before the end of the playback of the file that was downloaded in response to the previous fetching request (taught by Leaning; page 15 line 12 through page 16 line 5 for offering an option of having files pre-loaded).

Regarding claim 4, Leaning in view of Lai discloses the server as discussed in the rejection of claim 2. The combined system further discloses means for selecting a file to download based on a jump indication contained in said fetching request (taught by Leaning; page 11 line 12 through page 12 line 7).

Regarding claim 5, all limitations of claim 5 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 1. So, claim 5 is rejected under the same rationale as claim 1.

Regarding claim 6, all limitations of claim 6 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 2. So, claim 6 is rejected under the same rationale as claim 2.

Regarding claim 7, all limitations of claim 7 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 3. So, claim 7 is rejected under the same rationale as claim 3.

Regarding claim 8, all limitations of claim 8 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 4. So, claim 8 is rejected under the same rationale as claim 4.

Regarding claim 9, Leaning discloses a network system (see Figure 1) comprising:

a source for acquiring a multimedia content (page 1 lines 13-14 for "server 1" stores a set of files representing successive portions of audio or video material. It means that the server includes a source for acquiring content),

an encoder encoding said multimedia content (page 1 lines 20-24 for transmitting digitally coded/encoded audio or video material from the first station/server. It means that server must include an encoder),

a slicer for slicing said encoded multimedia content in at least one set of slicing positions forming at least one set of slices that can be decoded independently one from the other, and for enclosing each slice in a file thereby generating at least one set of files (page 1 lines 20-24 for partitioning the material into a plurality of discrete files. It means that server couples to a slicer),

a distribution network ("internet 2"),

an access provider for providing a client device with an access to said distribution network (page 2 lines 5-13 for the "internet 2" also performs function as an access provider to provide "terminal 3" with an access to telecommunication network via

"communication interface 35" in Figure 2), and

a server ("server 1").

Leaning in view of Lai discloses a server as discussed in the rejection of claim 1.

Conclusion

4.　　Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

　　　A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

　　　Any inquiry concerning this communication or earlier communications from the examiner should be directed to GIGI L. DUBASKY whose telephone number is

(571)270-5686. The examiner can normally be reached on Monday through Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN W. MILLER can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

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